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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|----------------------|---------------------|------------------|
| 10/588,655 | 06/11/2007 | Lena EhmSEN | 2003035-US | 9261 |
| 69289 7590 06/09/2009 | | | | |
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| Attention: Corporate Patents | | | | |
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| DK-3050 Humleback, | | | | |
| DENMARK | | | | |
| EXAMINER | | | | |
| HALE, GLORIA M | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3765 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 06/09/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,655

Applicant(s)

EHMSEN, LENA

Examiner

Gloria Hale

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5,7 and 9-20 rejected under 35 U.S.C. 102(b) as being anticipated by Stevenson (US 6964063).

Stevenson discloses an underpant structure comprising a front part 2, a back aprt 6 and a crotch part 12, two leg holes 8, 18, a releasable connection 20 with two parts 14 and 22 that connect the crotch part 12 to the front part 2 and form an edge portion of each of the leg holes 16, 18 and that are separated when in an open condition to form an opening in the crotch area. The releaseable connection 20 extends from one leg hole to the other and there is a flexible protection element 16,18. The leg holes are part of the opening formed in the crotch area in the open condition as seen in the figures 1A-1C. The flexible protection element is attached to the outer overlapping part of the releasable connection 20 and folds around the edge portion of the at least one leg holes. The flexible protection element 16, 18 is formed of the claimed materials (any other material) and since it is a band. (See col. 3, lines 27-35). The element is considered a ribbon since it is a band and as seen in the figures 1A-1C. The flexible protection element is an elongated loop of material as seen in figures 1A-1C. It includes two separate sections 16, 18 as claimed. The element is secured to an outer

side of the underpants by a fastening element 20. The narrow elongated strip is of a material configured to wrap around and at least partly cover the edge portion of at least one of the leg holes, is of a soft material of those listed, and is of two separate sections 16, 18 as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson (US 6964065).

Stevenson discloses the invention substantially as claimed except for the specific flexible protection element 16,18 ribbon length and the loop length as claimed. The bands of Stevenson appear to be within the claimed ranges. However it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the length of the ribbon and loops to be within the claimed ranges since such a length is the length necessary to connect the ribbons about the leg hole edges as claimed. Finding the length necessary to connect the crotch portion to the underpant front portion and to fold over the edges of the leg holes would have been found through routine experimentation. (See Stevenson, figures 1A-1C).

Response to Arguments

Applicant's arguments, filed 2-27-09 with respect to the rejection(s) of claim(s) 1-20 under 35 USC 102 (b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Stevenson.

Stevenson clearly discloses the underpant garment with the open crotch with the connection and the flexible protection elements 16,1 8 as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Gloria Hale/
Primary Examiner, Art Unit 3765
